

**REMARKS**

**Petition for Extension of Time Under 37 CFR 1.136(a)**

It is hereby requested that the term to respond to the Examiner's Action of November 30, 2006 be extended two months, from February 28, 2006 to May 1, 2006 (April 30 being a Sunday).

Authorization to charge a Credit Card is given to cover the extension fee. The Commissioner is hereby authorized to charge any additional fees associated with this communication to Deposit Account No. 19-5425.

In the Office Action, the Examiner indicated that claims 1 through 23 are pending in the application and the Examiner rejected all of the claims.

**Finality of the Office Action**

In a telephone conference held by the Examiner and the undersigned attorney on January 20, 2006, the Examiner agreed to withdraw the finality of the Office Action, but maintained the period for response set by the mailing date of the Action. Applicant thanks the Examiner for his withdrawal of the finality of the Action.

**March 27, 2006 Telephonic Interview**

On March 27, 2006, the Examiner and the undersigned conducted a telephonic interview to discuss the differences between the cited references and the claimed invention. Applicant thanks the Examiner for conducting the interview. As set forth in the Examiner's Interview Summary faxed on April 1, 2006, while no agreement as to claim language that would overcome the cited references was reached, the Examiner made constructive suggestions

regarding possible claim amendments that would overcome the rejection of record. Applicant has adopted the suggestion of the Examiner in the amendments submitted herewith.

**Rejection of Claims 1-23 under 35 U.S.C. §102(e) [§103]**

On page 2 of the Office Action, the Examiner rejected claims 1-23 under 35 U.S.C. §102(e) as being obvious over U.S. Patent No. 6,408,278 to Carney et al. in view of *Convenience Store News*, by Francella. Applicant believes the Examiner meant to reject the claims under §103 as being obvious in view of the cited art and will present arguments accordingly.

**The Present Invention**

The present invention is directed to a method and system for providing targeted advertising to a group of individuals. Particularly, group data is collected, passively, from communication-enabled personal communication devices present in an advertising area. Advertisements are selected to be displayed based on collected group data only for communication-enabled personal communication devices present in the advertising area at the time of display (see specification, page 10, line 18), i.e., advertising is displayed that corresponds only to individuals who are still in the area.

**U.S. Patent No. 6,408,278 to Carney et al.**

Carney teaches a system and method through which programming content is delivered for display on a network of electronic out-of-home display devices. Demographic data is obtained through a variety of means, and advertising is presented on the display devices based

upon the demographic data. The demographic information associated with each display device can be changed based on predicted changes in the target audience as a function of time.

Data is gathered by, for example, the use of kiosks that provide audience members with access to the Internet in exchange for demographic information; through the use of a camera that captures an image of an audience at a given time and processes the image to determine the demographic makeup of the audience; the dispensing of free shopping bags in exchange for demographic information, etc. Of particular relevance to the present examination is the gathering of demographic information based on the active transfer of personal demographic information from passersby using cellular telephones, personal digital assistants, and credit cards, using cellular communications, radio frequency, infrared communications, and magnetic card readers, i.e., the transfer is actively initiated by an act of the passer-by.

**Francella (*Convenience Store News*, January 1999)**

Francella (*Convenience Store News*, January, 1999) ("Francella") teaches the active use of RFID tags in a manner that is selective, such as very short range, so as to prevent fraud and ensure high accuracy (e.g., when paying for gas or other products, the customer would not want to be charged for items someone else obtained at a nearby pump or register and the merchant would not want to obtain a corrupted account number to which charges would be made). Francella suggests two uses for RFID tags. The first is as a unique identifier of a person carrying the tag (because the tag is incorporated in a credit card or customer loyalty card, or used to look up the customer's credit card stored in a database). In this case the RFID is acquired by the customer or given away by the retailer to the customer, because the customer intends to use the RFID to facilitate the customer's purchases.

Francella's second use of an RFID is similar, except that the tag is a read/write tag, and information about prior purchases is encoded directly into the tag where it can be read by other retailers when the customer makes subsequent purchases.

**The Examiner has not Established a *prima facie* Case of Obviousness**

As set forth in the MPEP:

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skilled in the art, to modify the reference or to combine reference teachings.

**MPEP 2143**

Nothing in Carney teaches or suggests passive data acquisition from communication-enabled personal communication devices to obtain access to, and the ability to use, highly specific and personal data stored on the wireless device. Likewise, Francella teaches only active use of an RFID tag for providing information. Each description of Francella talks about the customer "swiping" the RFID tag or "waving the keychain transponder" or other similar active techniques for providing the information to the vendor.

By contrast, the present invention requires no such action on behalf of the possessor of the communication-enabled personal communication device. Rather, the user's device is already transmitting this data, whether the user takes any affirmative action or not. Simply by being in the proximity of the receiver, the data of the customer is passively received by the collector of the data. Nothing in either Francella or Carney teach or suggest the obtaining of data passively in the manner claimed.

Of equal importance, nothing in Francella or Carney teach or suggest the claimed display of advertising content by taking into consideration only the users who are in the area at

the time the advertising is displayed ("selecting advertisements to be displayed based on the collected group data only for communication-enabled wireless devices present in the advertising area at the time of display"). In the case of both Carney and Francella, the data collector actively collects the data (based on the active steps performed by the possessor of the RFID information) and the possessor can then walk away and not be within the area of any advertising display, yet the advertising based upon that now-absent possessor would be displayed anyway. By contrast, the present invention will only display advertising based on the real-time analysis of devices that are in the area at the time the advertisement is being displayed. This has the added advantage of assuring that the advertising being displayed will have a high likelihood of being relevant to possessors of devices that are actually in the area, and not based on data collected from possessors who are no longer there.

Each of the above-identified differences are specifically claimed in each claim in the present invention. Thus, the combination of Carney and Francella suggested by the Examiner does not render the claimed invention obvious. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-23 under 35 USC §103.

### **Conclusion**

The present invention is not taught or suggested by the prior art. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the rejection of the claims. An early Notice of Allowance is earnestly solicited.

A Petition extending the period for response for two months, to May 1, 2006, is contained herein, along with authorization to charge the extension fee to a credit card. The

Commissioner is hereby authorized to charge any additional fees associated with this communication to Deposit Account No. 09-0461.

Respectfully submitted

Mar 1, 2006  
Date

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